IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8362 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT, DIRECTOR HEATH & FAMILY WELFARE DEPTT.
Versus
ASHOKGAR CHUNIGAR GOSAI

Appearance:
Ms.Sheth, Assistant GOVERNMENT PLEADER,
for Petitioner Nos. 1-3
DHARMESH D NANAVATY for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 21/07/2003

ORAL JUDGEMENT

Rule. With the consent of the parties, the matter is taken up for final hearing today.

By filing this petition, the petitioners have

challenged the Award, dated 6.2.2003, passed by the Labour Court, Jamnagar, by which the Labour Court has allowed the Reference of the respondent-workman, being Reference (LCJ) No.204 of 1998, and the concerned workman is ordered to be reinstated in service, with 30% back wages. The respondent-workman has raised the Industrial Dispute, challenging the order of termination.

The case of the workman is that he was appointed as a Ward Servant and he has served on the said post between 3.4.1993 and 31.1.1994, continuously, but thereafter, his services were terminated without following any procedure of law, by an order dated 31st January, 1994. It is his case that he was informed by the Department that as and when his services are needed, he will be gain called for. The said termination order was challenged by the respondent by way of raising an industrial dispute. The Labour Court came to the conclusion that the order of termination is wrong, as the provisions of Section 25-F are not followed by the employer. Considering the aforesaid aspect, the Labour Court has passed an order for reinstatement, with 30% back wages. The said order is challenged by the petitioners by filing this petition.

During the pendency of this petition, this Court suggested to Ms.Sheth, learned AGP, who is appearing for the petitioners, to find out whether it is possible to reinstate the concerned workman on his original post in case he is willing to forego the back wages. The learned AGP, after taking instructions in the matter, has informed the Court that the petitioners are ready to comply with the order of reinstatement passed by the Labour Court, as suggested by this Court. In this behalf, the learned AGP, has placed on record a copy of the order passed by the Deputy Director, Medical Services, Homoeopathy, Gujarat State, Gandhinagar, dated 10.7.2003, which is also kept on record. Learned Advocate for the respondent has fairly stated before the Court that the respondent workman is willing to forgo his back wages in case the workman is reinstated in service.

In view of the above statement and consensus between the parties, the order of the Labour Court is modified and the order of reinstatement, with continuity of service, is confirmed, and the order of back wages is quashed and set aside.

It is also clarified that since the respondent was initially appointed as a Daily Wager, by virtue of reinstatement, naturally, the respondent will be

reinstated on the said post. However, he will be entitled to current wages fixed for daily wagers.

The petition is partly allowed to the aforesaid extent. Rule is made absolute accordingly. No costs.

22nd July, 2003 (P.B. Majmudar, J.)

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(apj)